

REMARKS

Claims 1, 3 and 5-10 remain pending in the application.

Specification

The specification has been amended on page 8 to more particularly define that the entire management computer 11 has a first register unit for registering each reagent prior to operation of the analyzing system. This does not add new matter to the application since the register unit for registering a particular reagent is contained in original claim 4.

The specification has also been amended on page 15 between lines 9 and 10 to state that the entire management computer has a second register unit for registering the analyzing module in which the reagent is short and for again registering the analyzing module after the reagent is exchanged. Support for this amendment to the specification may be found at page 15, line 7-9 wherein it states that "the entire management computer 11 of automatic analyzing system registers the analyzing module 5 as an analyzing module necessary for exchange the reagent". Further support is found at page 16, lines 15-17 wherein it is stated that "the entire management computer 11 registers the analyzing module 5 again as an analyzing module which has completed the exchange of the reagent".

It is further noted that in the second full paragraph on page five of the action, the Examiner recognizes that in Applicant's invention each reagent is registered with a measurement item name prior to any shortage detection and that when a shortage of a reagent is detected, it is the associated analyzing module that is registered at that point and again registered after the reagent is exchanged.

It is therefore requested that the amendments to the specification be approved.

Claim Rejections Under 35 USC §112, first paragraph

Claims 1, 3 and 5-10 stand rejected under 35 USC 112, first paragraph as failing to comply with the written description requirement for the reasons set forth on pages 4 and 5 of the action.

The Examiner states that the specification fails to disclose a register means as claimed. As discussed above in connection with amendments to the specification, the specification has been amended to specifically refer to the register means. Applicants have also set forth above where support for amending the specification to define register means is set forth. Moreover, Applicants contend that the portion of the specification cited by the Examiner on page 4 of the action, i.e., paragraph 0044 on page 14, lines 4-7, wherein specific reference is made to a register button 500, does support the claimed register means.

The Examiner further stated on page 5 of the action that the previous amendment to the specification "gives the impression as if the name of a reagent is only registered at the point when a shortage is detected". As noted above, the amendment to the specification at page 15, between lines 9 and 10 specifically notes that an analyzing module is first registered when a shortage of a reagent in that module is detected and that the analyzing module is again registered after the reagent has been exchanged.

It is therefore submitted that claims 1, 3 and 5-10 all meet the requirements of 35 USC 112, first paragraph.

Claim Rejections Under 35 USC §112, second paragraph

Claims 3, 6 and 9 stand rejected under 35 USC 112, second paragraph, as being indefinite for the reasons set forth on pages 5 and 6 of the action. The Examiner stated that it was unclear in the second paragraph of claim 3 of what apparatus the term "the automatic analyzing apparatus" references. Claim 3 is dependent from claim 1 and claim 1 as now amended refers to "an analyzing

apparatus in which the one reagent is short". Therefore, the portion in the second paragraph in claim 3 which refers to "the analyzing apparatus in which the shortage of the one reagent occurred" clearly has antecedent basis in claim 1.

The Examiner also stated that in claim 6 it is unclear what is meant by the phrase "a buffer in which the sample to be analyzed..." since there was no antecedent basis for "the sample". Claim 6 has now been amended to refer to "a sample to be analyzed by the analyzing apparatus...".

Moreover, the last line of claim 6 has been amended to clarify that the analyzing apparatus is one in which a reagent is short. Thus, the last paragraph of claim 6 now reads as follows:

"a buffer in which a sample to be analyzed by the analyzing apparatus separated from the analyzing system, is placed in a stand-by state, without stopping the analysis of the entire system during a time period where the reagent to be replaced is supplied to the analyzing apparatus in which a reagent is short and which is separated from the analyzing system".

Claims 9 and 10 have also been amended to refer to "the analyzing apparatus in which a reagent is short".

It is therefore believed that claims 3, 6 and 9 all now satisfy the requirements of 35 USC § 112, second paragraph.

Claim Rejections Under 35 USC §102

Claims 1 and 3-10 stand rejected under 35 USC 102(e) as being anticipated by Mimura et al. US Patent 6,733,728.

For the reasons set forth hereafter it is submitted that claims 1, 3 and 5-10 are patentable. Claims 2 and 4 have been canceled.

Patentability of the claims over the prior art

Claim 1 has been further amended to define a first register means for registering each reagent in the analyzing system prior to operation thereof and a second register means for registering an analyzing apparatus in which a reagent is detected as being short.

Accordingly, claim 1 now calls for automatic analyzing system which analyzes samples by using a plurality of analyzing apparatuses which are disposed along a carrying line which comprises first register means for registering each reagent in the analyzing system prior to operation thereof, a reagent shortage detection unit for detecting that one of the reagents in analyzing apparatus is short, second register means for registering an analyzing apparatus in which a reagent is detected as being short and control separation means for controlling, so as to separate from the control of the automatic analyzing system, an analyzing apparatus in which the one reagent is short, when the reagent shortage detection unit detects a shortage of the one reagent.

Claims 3 and 5-10 define further structural elements of the automatic analyzing system.

Mimura does not disclose a first register means for registering each reagent in the analyzing system prior to operation thereof and a second register means for registering an analyzing apparatus in which a reagent is detected as being short.

In the Response to Arguments portion of the action, the Examiner stated that the means asserted in claims 2, 3, 5 and 7-10 do not add any further structure to that recited in claim 1 but only recite additional functions or intended use of the control separation means and that therefore a device which discloses a computer system capable of being programmed to operate as such would meet the limitations of the claims. Based on this interpretation, the Examiner then rejects the claims over the Mimura patent.

As amended, claim 1 now does positively recite additional structure. Moreover, there is no specific teaching in Mimura of programming the computer system so it is capable of operating so as to meet the limitation of claims 2, 3, 5 and 7-10. If what the Examiner says were to be followed, it would seem that it would not be possible to patent anything over an analyzing apparatus merely having a computer system. Applicant's invention contains specific teachings of how a computer can be programmed to constitute means for performing the functions set forth in the claims.

Accordingly, it is submitted that claims 1, 3 and 5-10 patentably distinguish over the prior art and should be allowed.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. KAS-184).

Respectfully submitted,

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